



## LEGAL FRAMEWORK

### International and European conventions

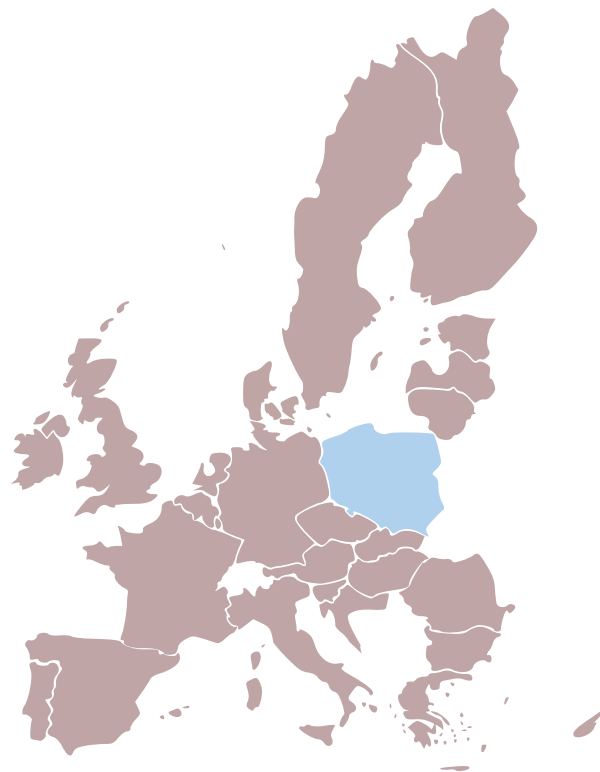
Poland has ratified various international conventions condemning FGM, including the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the Charter of Fundamental Rights of the European Union (2010/C 83/02).

### Criminal law

Cases of FGM could potentially be criminally prosecuted under the general criminal law through Articles 156, 157 and 160 of the Penal Code, referring respectively to crimes of grievous bodily injury, bodily injury and impairment to health, and exposure to the danger of loss of life. If a person living with the victim causes the bodily injury this changes the type of accusation, as referred to in Article 157, from a private to a public one. The principle of extraterritoriality is applicable, making FGM punishable even if it is committed outside the country.

### Child protection law

General child protection provisions could be used in cases of FGM. As such, the Family Code refers to children at risk and the application of protective measures like the restriction or deprivation of guardian rights. The Law on Counteracting Domestic Violence provides, through Articles 12a and 12b, measures such as removing a child from the family in the event of a direct threat to the life or health of the child.



### Asylum law

The Polish Office for Foreigners, which deals with asylum cases, would use the guidance note on refugee claims relating to female genital mutilation, developed by the UN High Commissioner for Refugees, as a basis for reference in cases of FGM-related asylum claims.

### Professional secrecy law

General law with regard to professional secrecy and disclosure could potentially be applied to report cases of performed or planned FGM. Article 304.1 of the Code of Criminal Procedure states that 'anyone who learns about the committing of an

## About the study

In order to contribute to identifying and filling the gaps in prevalence data collection and support the development of strategies for combating female genital mutilation (FGM), the European Institute for Gender Equality has commissioned the 'Study to map the current situation and trends of female genital mutilation in 27 EU Member States and Croatia'. The study was launched at the request of Viviane Reding, Vice-President of the European Commission. It was conducted by the International Centre for Reproductive Health (ICRH) of the Ghent University and Yellow Window Management Consultants (a division of E.A.D.C.).

The desk research in the 27 EU Member States and Croatia and the in-depth research in nine EU Member States brings about the first collection of information and data, legal and policy framework, actors, tools and methods in the area of FGM in the EU. The different national approaches to tackle FGM in the EU were analysed and compared in order to identify practices with potential in prevention, protection, prosecution, provision of services, partnership and prevalence.

The data provided in this publication were collected through desk research conducted between December 2011 and April 2012. More information and references about the study are available at: [eige.europa.eu](http://eige.europa.eu)

INDICATOR COUNTRY	FGM prevalence studies	Asylum granted on FGM grounds	Specific criminal law provision on FGM	National action plan covering FGM	FGM-related child protection interventions	Hospital/medical records of FGM
BELGIUM	✓	✓	✓	✓		✓
BULGARIA						
CZECH REPUBLIC						
DENMARK			✓	✓	✓	
GERMANY	✓	✓				
ESTONIA						
IRELAND	✓	✓	✓	✓		✓
GREECE				✓		
SPAIN			✓	✓	✓	
FRANCE	✓	✓		✓	✓	✓
ITALY	✓	✓	✓	✓	✓	
CYPRUS			✓			
LATVIA		✓				
LITHUANIA		✓				
LUXEMBOURG						
HUNGARY	✓	✓				
MALTA						
NETHERLANDS	✓	✓		✓	✓	✓
AUSTRIA		✓	✓	✓		
POLAND						
PORTUGAL				✓		✓
ROMANIA		✓				
SLOVENIA						
SLOVAKIA		✓				
FINLAND				✓	✓	
SWEDEN		✓	✓	✓	✓	✓
UNITED KINGDOM	✓	✓	✓	✓	✓	✓
CROATIA			✓	✓		

## What is female genital mutilation?

- Female genital mutilation (FGM), also known as female genital cutting, is a form of gender-based violence. It comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons.
- Female genital mutilation has negative effects on the health of women in the short, medium and long term and may even lead to death. It is carried out for both cultural and social reasons. Religious arguments tend to be used to justify the practice but there is no religious mandate for it.
- According to UNICEF, FGM is practised in more than 20 African countries spreading between Senegal in the west and Somalia in the east.
- Although overall figures are difficult to estimate, thousands of women and girls residing in the European Union may have been genitally mutilated or are at risk of FGM.
- The EU institutions and the Member States are committed to fighting FGM, as it is shown in the Commission's 'Strategy for equality between women and men (2010–2015)'. The Daphne III programme has played a crucial role in putting FGM on the agenda in several EU countries and in providing financial support for the implementation of transnational projects in this field.
- The European Parliament resolution of 14 June 2012 on ending female genital mutilation clearly stipulates that 'any form of female genital mutilation is a harmful traditional practice that cannot be considered part of a religion, but is an act of violence against women and girls which constitutes a violation of their fundamental rights'. The European Parliament calls on the Member States to take a firm action to combat this illegal practice.

offence prosecuted ex officio has a social duty to inform the prosecutor or the police about it'. Article 572.1 of the Civil Code states that 'anyone who is aware of an event that justifies the initiation of ex officio prosecution is obliged to inform the guardianship court thereof'. The above duty lies, amongst others, with local government bodies, police, educational institutions, social workers and organisations and institutions dealing with the care of children or mentally ill people. Article 12 of the Act on Counteracting Domestic Violence states that 'individuals who, during the execution of their official duties, came to suspect that a crime consisting in violence towards one's family members has been committed, should immediately notify the Police or the prosecutor'. Doctors, nurses, social workers, teachers, court-appointed custodians and police officers are particularly addressed by this obligation. The above-mentioned principles are endorsed in regulations concerning the performance by the medical professions that also specify the rules governing professional secrecy. Sanctions can vary from no sanctions at all in the event of the so-called social obligation, through disciplinary responsibility for non-performance of duties to penal sanctions in the case of public officials.

## POLICY FRAMEWORK

In Poland, there is no action plan specifically dealing with FGM. The 'National Programme for Counteracting Domestic Violence' does not particularly mention FGM either. No reports were found of the issue of FGM having been raised in the Parliament.

## PREVALENCE OF FGM IN THE COUNTRY

There are no FGM prevalence data available in Poland (as of February 2012), probably due to the limited migration of women from countries where FGM is common to Poland. No relevant data could be obtained from the Central Statistical Office, the National Police Headquarters, the Office for Foreigners, the Ministry of Health or the Polish Gynaecological Society that could shed light on the magnitude of the phenomenon in Poland.

### Facts

- As of February 2012, there is no information available to estimate the prevalence of FGM in Poland.

### Figures

- There is a record of one FGM-related asylum claim that was dismissed.



## What is gender-based violence?

- Gender-based violence is a violation of human rights and a form of discrimination. It is defined as violence directed against a person on the basis of gender. Gender-based violence reflects and reinforces inequalities between men and women and results in physical, mental and sexual harm. It includes, among others: domestic violence, rape, sexual harassment, sexual violence during conflict, female genital mutilation, forced marriages, forced prostitution, forced sterilisation, female infanticide and prenatal sex selection.
- In the European Pact for Gender Equality (2011–2020) the Council of the European Union reaffirms its commitment to fulfil EU ambitions regarding gender equality as mentioned in the Treaty. In particular, it emphasises the need to combat all forms of violence against women in order to ensure the full enjoyment of human rights by women and girls and, as a consequence, to enhance gender equality with a view to creating inclusive growth and development in labour markets in Europe.
- The European Parliament Resolution on the elimination of violence against women of 26 November 2009 urges Member States to improve, among others, their national laws and policies to combat all forms of violence against women, in particular through the development of comprehensive national action plans to combat violence against women.
- The European Commission's Strategy for Equality between Women and Men 2010–2015 emphasises the importance of combating violence against women. The Stockholm Programme 2009 highlights the need for special support and legal protection for victims of violence against women. In addition, the Women's Charter 2010 envisages the implementation of a comprehensive and effective policy framework to combat gender-based violence as well as the strengthening of the measures to eradicate female genital mutilation and other acts of violence.

## About the European Institute for Gender Equality (EIGE)

The European Institute for Gender Equality is the EU knowledge centre on gender equality. EIGE supports policymakers and all relevant institutions in their efforts to make equality between women and men a reality for all Europeans and beyond, by providing them with specific expertise and comparable and reliable information on gender equality in Europe.

More information: [eige.europa.eu](http://eige.europa.eu)

Neither the European Institute for Gender Equality nor any person acting on its behalf can be held responsible for the use made of the information contained in this publication.



[eige.europa.eu](http://eige.europa.eu)

ISBN 978-92-9218-255-7  
doi:10.2839/81605



Publications Office



MH3213145ENC